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Paper No. 13

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DEC 27 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

In re Application of
Joseph Allen, et al.
Application No. 09/523,267
Filed: March 10, 2000
For: **INTELLENT ACCESS CONTROL
SYSTEM**

This is in response to the Petition to Withdraw the Holding of Abandonment filed September 14, 2004, which is treated as pursuant to 37 CFR §1.181. No fee is required.

The application was held as abandoned for failure to timely respond to the final Office action mailed January 15, 2004. A Notice of Abandonment was mailed on August 25, 2004.

Petitioner states that they did not receive the final Office action mailed January 15, 2004, but that the Notice of Abandonment was forwarded to them by the Law firm of Morgan Lewis & Bockius LLP of Washington D.C.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has not complied with the requirements set forth above. However, a review of the record reveals that two requests for Change of Address/Power of Attorney were filed in the subject application, within 6 days of each other. The first Change of Address/Power of Attorney was for the Law firm of Morgan Lewis & Bockius LLP of Washington D.C., filed March 28,

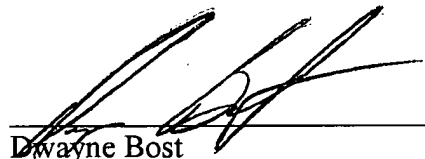
Decision on Petition

2003. The second Change of Address/Power of Attorney lists the correspondence address set forth above and appoints the attorneys associated with customer number 32127. This second Change of Address/Power of Attorney was filed April 3, 2003. However, it appears as though the first Change of Address/Power of Attorney was processed after the second Change request. Therefore, the correspondence address was changed to the Law firm of Morgan Lewis & Bockius LLP of Washington D.C. Thus, there was obviously an irregularity in mailing of the final Office action.

Accordingly, the application was not abandoned in fact, and the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center's technical support staff for re-mailing the final Office action. A new three month statutory period for response to the final Office action will be reset to begin as of the mailing date of the new final Office action.

A handwritten signature in black ink, appearing to read 'Dwayne Bost', is written over a horizontal line.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications